

Introduced by Senator Johnston

February 26, 1999

An act to amend Sections 51291 and 51292 of the Government Code, relating to the Williamson Act.

LEGISLATIVE COUNSEL'S DIGEST

SB 985, as introduced, Johnston. Agricultural preserves: public use.

Under the Williamson Act, whenever it appears that land within an agricultural preserve may be required by a public agency or person, as defined, for a public use, the public agency or person is required to provide specified notices and findings to the Director of Conservation and the local governing body responsible for the administration of the preserve, that explain its intention to consider the location of a public improvement within the preserve. The act also provides that the required notices and findings may be given and contained in documents prepared pursuant to the California Environmental Quality Act (CEQA) as long as they are provided no later than the times set forth in these provisions.

This bill would repeal these provisions that allow the CEQA documents to provide the required notices and findings and would revise the required findings.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 51291 of the Government Code
2 is amended to read:

3 51291. (a) As used in this section and Sections 51292
4 and 51295, (1) “public agency” means any department or
5 agency of the United States or the state, and any county,
6 city, school district, or other local public district, agency,
7 or entity, and (2) “person” means any person authorized
8 to acquire property by eminent domain.

9 (b) Whenever it appears that land within an
10 agricultural preserve may be required by a public agency
11 or person for a public use, the public agency or person
12 shall advise the Director of Conservation and the local
13 governing body responsible for the administration of the
14 preserve of its intention to consider the location of a
15 public improvement within the preserve. In accordance
16 with Section 51290, the notice shall include an
17 explanation of the preliminary consideration of Section
18 51292, and give a general description, in text or by
19 diagram, of the agricultural preserve land proposed for
20 acquisition, and a copy of any applicable contract created
21 under this chapter. The Director of Conservation shall
22 forward to the Secretary of Food and Agriculture, a copy
23 of any material received from the public agency or person
24 relating to the proposed acquisition.

25 Within 30 days thereafter, the Director of Conservation
26 and the local governing body shall forward to the
27 appropriate public agency or person concerned their
28 comments with respect to the effect of the location of the
29 public improvement on the land within the agricultural
30 preserve and those comments shall be considered by the
31 public agency or person. In preparing those comments,
32 the Director of Conservation shall consider issues related
33 to agricultural land use, including, but not limited to,
34 matters related to the effects of the proposal on the
35 conversion of adjacent or nearby agricultural land to
36 nonagricultural uses, and shall consult with, and
37 incorporate the comments of, the Secretary of Food and
38 Agriculture on any other matters related to agricultural

1 operations. The failure of any public agency or person to
2 comply with the requirements of this section shall not
3 invalidate any action by the agency or person to locate a
4 public improvement within an agricultural preserve.
5 However, the failure by any person or public agency,
6 other than a state agency, to comply with the
7 requirements of this section shall be admissible in
8 evidence in any litigation for the acquisition of that land
9 or involving the allocation of funds or the construction of
10 the public improvement. This subdivision does not apply
11 to the erection, construction, alteration, or maintenance
12 of gas, electric, water, or communication utility facilities
13 within an agricultural preserve if that preserve was
14 established after the submission of the location of those
15 facilities to the city or county for review or approval.

16 (c) When land in an agricultural preserve is acquired
17 by a public entity, the public entity shall notify the
18 Director of Conservation within 10 working days. The
19 notice shall include a general explanation of the decision
20 and the findings made pursuant to Section 51292. If
21 different from that previously provided pursuant to
22 subdivision (b), the notice shall also include a general
23 description, in text or by diagram, of the agricultural
24 preserve land acquired and a copy of any applicable
25 contract created under this chapter.

26 (d) If, after giving the notice required under
27 subdivisions (b) and (c) and before the project is
28 completed within an agricultural preserve, the public
29 agency or person proposes any significant change in the
30 public improvement, it shall give notice of the changes to
31 the Director of Conservation and the local governing
32 body responsible for the administration of the preserve.
33 Within 30 days thereafter, the Director of Conservation
34 and the local governing body may forward to the public
35 agency or person their comments with respect to the
36 effect of the change to the public improvement on the
37 land within the preserve and the compliance of the
38 changed public improvements with this article. Those
39 comments shall be considered by the public agency or



1 person, if available within the time limits set by this
2 subdivision.

3 ~~(e) If the notices and findings required by this section~~
4 ~~and Section 51292 are given and contained within~~
5 ~~documents prepared pursuant to the California~~
6 ~~Environmental Quality Act (Division 13 (commencing~~
7 ~~with Section 21000) of the Public Resources Code) those~~
8 ~~documents may be used to meet the notification and~~
9 ~~findings requirements of this section and Section 51292,~~
10 ~~as long as they are provided no later than the times set~~
11 ~~forth in this section.~~

12 ~~Any~~

13 ~~(e) Any~~ action or proceeding regarding notices or
14 findings required by this article filed by the Director of
15 Conservation or the local governing body administering
16 the agricultural preserve shall be governed by Section
17 51294.

18 SEC. 2. Section 51292 of the Government Code is
19 amended to read:

20 51292. No public agency or person shall locate a public
21 improvement within an agricultural preserve unless the
22 following findings are made:

23 (a) The location is not based primarily on a
24 consideration of the lower cost of acquiring land in an
25 agricultural preserve.

26 (b) If the land is ~~prime~~ agricultural land covered
27 under a contract pursuant to this chapter for any public
28 improvement, that there is no other land within or
29 outside the preserve on which it is reasonably feasible to
30 locate the public improvement.

